

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

GLENN THOMAS,

Defendant.

S3 12 Cr. 626 (ER)

**Objections/Proposed Alternatives to
Government's Proposed Jury *Voir Dire***

Defendant Glenn Thomas, by his attorneys Don Buchwald and Joshua Dratel, objects to Government Jury *Voir Dire* requests 35, 36, 37, 38, 39, 52 and 53, and further objects to the use of the word "criminal" in Government Jury *Voir Dire* Request #16, and respectfully requests an opportunity to be heard concerning said objections prior to such statements and inquiries being put to the jury panel.

Defendant Thomas objects to Government Jury *Voir Dire* Request #35 because insofar as it refers to "use of informants" rather than "testimony of informants," it improperly suggests that the Government has received information from informants on which its prosecutive judgment was based which will not be presented to the jury. Defendant Thomas further objects to Government Request #35 because it is redundant insofar as any "informant" testifying at the trial would also be an "accomplice" (See Government Jury *Voir Dire* Request #38).

Defendant Thomas objects to Government Jury *Voir Dire* Requests #36 and 37. If Requests 36 and 37 are given in some form, we request that they be amended to read as follows: "Some of the evidence which will be offered in this trial was obtained through searches conducted by law enforcement officers and/or recorded conversations made without the knowledge of one of the participants in the conversation. It is lawful for you to consider such evidence. As with all evidence, the weight, if any, to be given to such evidence is for you and you alone as jurors to determine. Is there anyone here who for personal reasons of whatever kind cannot follow this instruction?"

Defendant Thomas objects to Government Jury *Voir Dire* Request #38. If Request #38 is given in some form, we request that it be amended to read as follows: "You may hear testimony in this case from one or more witnesses who at one time were themselves involved in illegal activity, but have now pled guilty to crimes and are testifying on behalf of the prosecution in the hope of receiving a lower sentence. I instruct you that while it is legal for the prosecutor to call such a person as a witness and present the testimony of such a witness for your

consideration, you must consider the testimony of such a witness with extra care and scrutiny. Is there anyone here who believes they could not follow either the Court's instruction that you may consider such testimony or that you should do so with extra care and scrutiny?"

Defendant Thomas objects to Government Jury *Voir Dire* Request #39. If Request #39 is given in some form, we request that the second sentence be amended to read as follows: "While a reasonable doubt may be found to exist either from the evidence or the lack of evidence, would any of you be unable to follow my instruction that the prosecution is not required to use any particular investigative technique in order to establish guilt beyond a reasonable doubt?"

Defendant Thomas objects to Government Jury *Voir Dire* Request #52 as unbalanced. If it is given, Defendant Thomas requests that #52A be added as follows:

52A. On the other hand, it is not particularly pleasant to acquit an individual charged with a crime even when you believe that he probably committed the crime just because the Government has failed to prove each and every element of the crime beyond a reasonable doubt, as it is required to do. Is there any juror who feels that even if the Government failed to prove each and every element of the crime charged beyond a reasonable doubt that he or she might not be able to render a not-guilty verdict for reasons unrelated to the law and to the evidence?

Defendant Thomas objects to Government Jury *Voir Dire* Request #53. The crucial question jurors must ask is not "Where do you find the truth?" The crucial question jurors must ask is whether or not the Government has proved each and every element of the crime charged beyond a reasonable doubt.

Dated: New York, New York
July 11, 2014

Respectfully Submitted,



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